THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.2201 of 2005

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21st November 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07.10.2005 in W.P.NO.20909 OF 2005 on the file of the High Court.)

Between:

Acharya N.G.Ranga Agricultural University Rep.by its Registrar
Rajendranagar Hyderabad.

...APPELLANT

AND

Dr. V. Bhanu Prasad S/o. V. Chandrasekharam
Sri Ventateswara Agricultural College Tirupathi.

...RESPONDENT

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THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.2201 of 2005

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri B.Siva Reddy, the learned counsel appearing for the appellant/University and Sri Siva, the learned counsel appearing for the respondent.

At their request, the Writ Appeal itself is taken up for disposal.

This appeal is at the instance of the appellant seeking to assail the order 07.10.2005 in Writ Petition No.20909 of 2005 granted by the learned Single Judge pending Writ Petition, which reads as follows:

"The respondent filed counter affidavit.

The learned counsel for the petitioner submits that the impugned Memo is nothing but an attempt to overcome the time frame fixed by this Court and to protract the enquiry.

The learned Standing Counsel, on the other hand, submits that the necessity to issue the impugned Memo arose, on account of the fact that the exact facts and figures were not indicated in the previous proceedings.

On a consideration of the entire proceedings and on perusal of the Charge memo that was issued earlier and the impugned memo, this Court finds that except stipulating the amount, no fresh charge is framed. Though it is painful to stall the disciplinary proceedings, this Court is left with no alternative, on account of the course of action adopted by the respondents.

Hence, there shall be stay of further proceedings, till the disposal of the writ petition.

Post the writ petition 'for hearing immediately after vacation'."

The crux of the case in the Writ Petition is against reframing of the charges as per the order dated 30.08.2005. As per the writ petitioner, the charges were framed as long back as on 05.11.2001. In spite of the direction of this Court for completion of enquiry, for no fault of him, he is set to harassment and reframing of the charges is made on 30.08.2005. The learned Single Judge, after taking into consideration the plea of the writ petitioner and the material available on record, gave a direction for completion of enquiry opining that having not completed the enquiry, any attempt in reframing of the charges is not proper. Therefore, he granted interim stay and also directed that the Writ Petition itself be posted for hearing.

Having heard the learned counsel on either side and on perusal of the material available on record, it is seen that there is no dispute to the fact that the disciplinary proceedings were issued against the writ petitioner/respondent and charges were framed on 05.11.2001, which includes the allegation pertaining to his misconduct.

No doubt there is no delay in finalizing the enquiry on behalf of the respondent. During pendency of the enquiry, the charges were reframed on 30.08.2005 against the respondent to submit a written statement of his defence on the basis of the charge framed on 05.11.2001. Further, at the stage of disciplinary proceedings, this Court interdicted the same in exercise of its powers under Article 227 of the Constitution of India by way of interim direction. It is always open for the appellant to challenge the same by way of a Writ Petition under Article 227 of the Constitution of India. Hence, we do not find any justification to grant any interim order pending Writ Petition.

The Writ Appeal is accordingly allowed. No costs. The order dated 07.10.2005 is set aside. The order in regard to posting of Writ Petition for 'final hearing' stands as it is.

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(B.PRAKASH RAO, J)

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(DR G.YETHIRAJULU, J)

21st November 2005

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